

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRUSTEES OF SPRINKLER FITTERS
LOCAL 704 DEFINED CONTRIBUTION
FUND,

Plaintiff,

v.

Civil Case No. 23-11845
Honorable Linda V. Parker

MAVERICK FIRE PROTECTION, INC.
and SCOTT PENIVE,

Defendants.

_____ /

OPINION AND ORDER GRANTING MOTION TO WITHDRAW

Pending before the Court is a motion to withdraw filed by Defendants' counsel in this matter: David W. Schelberg and McDonald Hopkins PLC. (ECF No. 8.) The stated reasons for counsel's request to withdraw are irreconcilable differences and an unreasonable financial burden on counsel. Defense counsel represents that Defendants do not object to their withdrawal.

The Court finds good cause for defense counsel to withdraw and that such withdrawal can be accomplished without material adverse effect on Defendants' interests. *See* Mich. R. Prof'l Conduct 1.16. The Court is staying the proceedings for 45 days to allow Defendants to retain new counsel. As a corporate entity, Defendant Maverick Fire Protection, Inc. cannot proceed in this matter without an

attorney. *See, e.g., Rowland v. California Men's Colony*, 506 U.S. 194, 201-202 (1993) (citing cases); *Doherty v. American Motors Corp.*, 728 F.2d 334, 340 (6th Cir.1984) (citations omitted). When a corporation declines to hire counsel to represent it, the court may properly dismiss its claims, if it is a plaintiff, or strike its defenses, if it is a defendant. *Greater Southeast Cmty. Hosp. Found., Inc. v. Potter*, 586 F.3d 1, 5 (D.C. Cir. 2009) (citing *Donovan v. Road Rangers Country Junction, Inc.*, 736 F.2d 1004, 1005 (5th Cir. 1984) and *Strong Delivery Ministry Ass'n v. Bd. of Appeals of Cook Cnty.*, 543 F.2d 32, 33 (7th Cir. 1976)).

Accordingly,

IT IS ORDERED that the counsel's motion to withdraw (ECF No. 8) is **GRANTED** and David W. Schelberg and McDonald Hopkins PLC shall be terminated as counsel. Defendants' counsel shall serve a copy of this Opinion and Order on Defendants and must file a proof of service with the Court.

IT IS FURTHER ORDERED that this matter is **STAYED** for 45 days to allow Defendants to retain new counsel, who shall file a written appearance on the docket before the 45 days expires.

IT IS FURTHER ORDERED that Defendants' failure to retain counsel and for counsel to enter a written appearance within 45 days of this Opinion and Order will result in Defendant Maverick Fire Protection Inc.'s defenses being

stricken without further notice of the Court, and the Court will conduct further proceedings in its absence in accordance with the law.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: September 8, 2023